

Exhibit A

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	
	:	Civil Action No.
v.	:	3:16-CV-00622-CWR-FKB
	:	
STATE OF MISSISSIPPI,	:	
	:	
Defendant.	:	

[PROPOSED] CASE MANAGEMENT ORDER

This Order, including all deadlines, has been established with the participation of all parties and can be modified only by order of the Court on a showing of good cause supported with affidavits, other evidentiary materials, or reference to portions of the record.

IT IS HEREBY ORDERED:

- 1. ESTIMATED DAYS OF TRIAL:** 30 total (20 days for case-in-chief; 10 days for defense)

ESTIMATED TOTAL NUMBER OF WITNESSES: 75 total (50 for case-in-chief; 25 for defense)

EXPERT TESTIMONY EXPECTED: Yes **NO. OF EXPERTS:** 24 total (12 for each party)

The parties may seek revision of the estimates after the conclusion of discovery.

- 2. ALTERNATIVE DISPUTE RESOLUTION.**

The parties are willing to reconsider the possibility of ADR as the case progresses.

- 3. CONSENT TO TRIAL BY UNITED STATES MAGISTRATE JUDGE.**

The parties do not consent to trial by a United States Magistrate Judge.

- 4. DISCLOSURE.**

In accordance with FRCP 26(a)(1) and L.U.Civ.R. 26(a)(1)(A), the parties have exchanged the required initial disclosures.

The parties have met and conferred as required by L.U.Civ.R. 26(a).

5. MOTIONS, ISSUE BIFURCATION.

The Parties have agreed that the United States will use a sample drawn from individuals in the State Hospitals to bring clarity to the population at issue according to the following process:

1. The United States will serve a discovery request seeking information (such as names and personally identifiable information, contact information, date(s) of admission and discharge, discharge destination(s), institution(s) and unit(s)) related to individuals who were in a State Hospital at any time in the two years preceding the date of the discovery request.
2. The State will respond with the requested information within 30 days of service of the discovery request in step 1, or as stated in paragraph 22 of the Joint Stipulation Regarding Discovery for requests for production.
3. The United States will draw a sample of individuals and serve a discovery request seeking the medical records of those individuals, within 60 days of receiving the State's response described in step 2.
4. The State will respond with the requested medical records within 45 days of service of the discovery request in step 3.
5. The United States will disclose the expert reports addressing its assessment of individuals in the sample by March 30, 2018, approximately one month in advance of disclosing its remaining expert reports.

The Parties have agreed to these timeframes on the assumption that the United States' sample will contain approximately 300 individuals.

6. DISCOVERY PROVISIONS AND LIMITATIONS.

A. Interrogatories are limited to 35 succinct questions.

B. Requests for Production are limited to ____ succinct questions.

The Parties do not agree and, as required by the Court's May 5, 2017 Order, will file motions setting forth their positions.

C. Requests for Admissions are limited to ____ succinct questions.

The Parties do not agree and, as required by the Court's May 5, 2017 Order, will file motions setting forth their positions.

D. Depositions are limited to the parties, experts, and no more than ____ fact witness depositions per party without additional approval of the Court.

The parties agree to limit depositions of non-expert witnesses to 50 depositions per party without additional approval of the Court. The United States will limit the number of State employee depositions to 40 without additional approval of the Court.

- E.** The parties have complied with the requirements of Local Rule 26(e)(2)(B) regarding discovery of electronically stored information and have concluded as follows [The parties **MUST** state whether or not there is ESI and, if so, how they propose to address it]:

The Parties have agreed to a Joint Stipulation Regarding Discovery, which will be filed with the Court.

- F.** The court imposes the following further discovery provisions or limitations:

- ☐ a. The parties have agreed that defendant may obtain a Fed. R. Civ. P. 35 (L.U.Civ.R. 35) medical examination of the plaintiff (within subpoena range of the court) by a physician who has not examined the plaintiff, and that defendant may arrange the examination without further order of the court.
- ☒ b. Pursuant to Rule 502(d) of the Federal Rules of Evidence, the attorney-client privilege and the work-product protections are not waived by any disclosure connected within this litigation pending before this Court. Further, the disclosures are not waived in any other federal or state proceeding.
- ☐ c. Plaintiff must execute an appropriate, HIPAA-compliant medical authorization.
- ☒ d. The court desires to avoid the necessity of filing written discovery motions where court participation in an informal discussion of the issue might resolve it, even after the parties have been unsuccessful in a good faith attempt to do so. Consequently, before a party may serve any discovery motion, counsel must first confer in good faith as required by F.R.Civ.P. 37(a)(1). If the attorney conference does not resolve the dispute, counsel must contact the chambers of the magistrate judge to request a telephonic conference to discuss the issue as contemplated by F.R.Civ.P. 16(b)(3)(v). Only if the telephonic conference with the judge is unsuccessful in resolving the issue may a party file a discovery motion.
- ☒ e. Other:

The Court entered a Protective Order Related to Health Information.

Additional Provisions:

7. SCHEDULING DEADLINES

- A. TRIAL.** This action is set for (Jury trial/Non-Jury) during a (term of court/statement not applicable) beginning on: _____, at _____, a.m./p.m., in (Choose city), Mississippi, before United States (District/Magistrate) Judge _____.

THE ESTIMATED NUMBER OF DAYS FOR TRIAL IS _____. ANY CONFLICTS WITH THIS TRIAL DATE MUST BE SUBMITTED IN WRITING TO THE TRIAL JUDGE IMMEDIATELY UPON RECEIPT OF THIS CASE MANAGEMENT ORDER.

B. PRETRIAL. The pretrial conference is set on: _____, at _____ a.m./p.m., in (choose city), Mississippi, before United States (District/Magistrate) Judge _____.

C. DISCOVERY. All discovery must be completed by: _____.

D. AMENDMENTS. Motions for joinder of parties or amendments to the pleadings must be filed by _____.

E. EXPERTS. The parties' experts must be designated by the following dates:

a. Plaintiff(s): _____.

b. Defendant(s): _____.

8. MOTIONS. All dispositive motions and Daubert-type motions challenging another party's expert must be filed by _____. The deadline for motions *in limine* is fourteen days before the pretrial conference; the deadline for responses is seven days before the pretrial conference.

9. SETTLEMENT CONFERENCE. (Pick one)

(No setting at this time.)

(Early Settlement Conference.)

(Early Settlement Conference and additional Settlement Conference.)

(If the parties desire judicial assistance to settle the case after initial discovery, they will contact the Court to request a date for a settlement conference when they have obtained the discovery necessary to make the conference effective.)

10. REPORT REGARDING ADR. On or before (7 days before the pretrial conference) _____, the parties must report to the undersigned all ADR efforts they have undertaken to comply with the Local Rules or provide sufficient facts to support a finding of just cause for failure to comply. *See L.U.Civ.R. 83.7(f)(3).*

The United States and the State have submitted a Joint Scheduling Table as Attachment A for the Court's consideration.

SO ORDERED:

DATE

UNITED STATES MAGISTRATE JUDGE

ATTACHMENT A TO PROPOSED CASE MANAGEMENT ORDER**JOINT SCHEDULING TABLE**

Event	Party Agreement
Case Management Conference	May 5, 2017
U.S. Clinical Review Expert Disclosures (U.S. identifies individuals at issue in lawsuit)	March 30, 2018
Remaining U.S. Expert Disclosures	April 27, 2018
Mississippi Expert Disclosures	June 27, 2018
All Discovery Completed	August 24, 2018 (12 weeks after close of expert report period)
Motion for Summary Judgment and Daubert Motions	September 7, 2018 (2 weeks after close of discovery)
Opposition to Summary Judgment and Daubert Motions	October 5, 2018 (one month after motions for summary judgment)
Reply to Summary Judgment and Daubert Motions	October 19, 2018 (2 weeks after opposition to summary judgment)
ADR Report	December 7, 2019

Event	Party Agreement
Motions in Limine	December 14, 2019 (4 weeks before pre-trial conference)
Responses to Motions in Limine	December 28, 2018 (2 weeks before pre-trial conference)
Pre-trial Conference	January 11, 2019
Trial	February 4, 2019 (4 months after the close of MSJ briefing)